IN THE HIGH COURT OF JUDICATURE AT PATNA
CR. WJC No.758 of 2008
NIL KAMAL @ SONI
Versus
THE STATE OF BIHAR & ORS

For the Petitioner : Mr. Amrit Abhijat, Advocate
Mr. Upendra Yadav, Advocate
For the Respondents : Mr. Mani Kant Mishra, Government Pleader-XXI

P R E S E N T

Hon'ble the Chief Justice
&
Hon'ble Mr. Justice Kishore K. Mandal

Dated, the 25th August, 2008.

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We perused the averments made in the writ petition and the copy of the first information report lodged by the petitioner's father against (1) Rajesh Kumar Das, (2) Shiv Awtar Das, (3) Ram Dulari Devi, (4) Suresh Das and (5) Bibha Kumari.

2. The case of the petitioner is that she has, on her own choice and free will, without any coercion or undue influence, married Shiv Awtar Das. The petitioner claims to be about 19 years old; her date of birth being 5th September, 1989. The prayer in the writ petition is for direction to the police authorities to produce/release (1) Jhari Lal Das, (2) Uma Devi, (3) Vivek Kumar, (4) Ram Dulari Devi, (5) Suresh Ram and (6) Liladhar Yadav, who are either accused in the F.I.R. or relatives of the accused persons. Some of these persons are said to have been detained by the police on 20th August, 2008 and the

others on 21st August, 2008.

3. From the available material, it transpires that Shiv Awtar Das, allegedly married the petitioner. As noticed above, he is an accused in the criminal case being Madhubani (Town) P.S. Case No.211/08. He made an application for anticipatory bail before this Court being Cr. Misc. No. 32958 of 2008. This Court allowed the bail application subject to the condition that the accused Shiv Awtar Das appears before the Court of Chief Judicial Magistrate, Madhubani within four weeks from the date of order. On the date of appearance, Neelkamal @ Soni (present petitioner) was also directed to appear before the Magistrate so that her statement could be recorded under Section 164 Cr.P.C. The order further observes that in case the girl (present petitioner) makes the statement before the Court that she was major on the date of occurrence and had accompanied the boy (Shiv Awtar Das) of her own sweet will, the bail bond with two sureties will be accepted and Shiv Awtar Das be granted bail.

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4. We wanted to know from the counsel for the petitioner as to whether the petitioner has appeared before the Chief Judicial Magistrate, Madhubani and got her statement under Section 164 Cr.P.C. recorded. The answer was in the negative.

5. In the circumstances, we are satisfied that the following order shall meet the ends of justice: -

(i) The petitioner may appear before the Court of Chief Judicial Magistrate, Madhubani as per order dated 12th August, 2008.

(ii) Her appearance must be on the same day, the accused Shiv Awtar Das appears before the Chief Judicial Magistrate as directed in the order dated 12th August, 2008.

(iii) On the date of appearance of the present petitioner (Nilkamal @ Soni), Chief Judicial Magistrate, Madhubani shall record her statement and proceed with the matter accordingly.

(iv) As regards the allegation that the persons mentioned in paragraph 1(A) have been illegally detained, this aspect may be brought to the notice of the Chief Judicial Magistrate, Madhubani.

6. Writ petition is disposed of accordingly.

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R. M. Lodha, CJ

Kishore K. Mandal, J

Pawan/-